

# Division of Child Support

## Policy Clarification Memo 02-014

**To:** All DCS Staff  
**From:** Georgiann DeKay  
Director, Division of Child Support  
**Date:** November 14, 2002  
**Subject:** Tribal Public Disclosure Issues

### What is the background of this PCM?

Since 1996, federally recognized Indian tribes have had new child support opportunities available to them:

- 42 USC Section 654 provides that a state and an Indian tribe may enter into a cooperative agreement for child support enforcement.
- Section 655 of this code gives authority for Indian tribes to operate direct-funded child support programs.
- Indian tribes are also addressing child support issues on Tribal TANF cases as a result of Section 612, which gives Indian tribes authority to operate Tribal TANF programs.

Several Indian tribes in Washington State now operate Tribal IV-D programs, Tribal TANF programs or have cooperative agreements with DCS.

As Indian tribes explore and implement these new tribal opportunities, there is increased communication and interaction between DCS and Indian tribes regarding coordination of services. Several public disclosure issues have been raised. The purpose of this PCM is to provide guidance regarding releasing information to federally recognized Indian tribes.

### Can I disclose information and records to Tribal IV-D program staff?

Yes, you can disclose information and records to Tribal IV-D program staff, under the same authority as you share information with other state IV-D program staff. Check the DCS Interstate Requirements web site for a list of Tribal IV-D programs.

### Can I disclose information and records to officials of a federally recognized Indian tribe?

Per RCW 26.23.120 and WAC 388-14A-2105, DCS may disclose information to any federally recognized Indian tribe if disclosure is necessary to the administration of the child support program or the performance of DCS functions and duties under state and federal laws.

### What are some examples of situations in which I may disclose case information to officials of a federally recognized Indian tribe "necessary to the administration of the child support program"?

1. A tribe asks DCS for non-specific case data because the tribe is:
  - a. Considering negotiating an informal process or cooperative agreement with DCS;
  - b. Determining the impact of operating a Tribal IV-D program;
  - c. Deciding how to address child support issues on Tribal TANF cases; Or

- d. Considering a process for DCS to file cases in tribal court for establishment or enforcement.
2. In tribal cases, before suspending a license, referring a case for contempt or NWEPP, or posting a case to the DCS Most Wanted web site, DCS policy states that these collection remedies should only be considered if all other *normal collection remedies* have failed. In tribal caseloads, *normal collection remedies* include seeking assistance from the tribe or possible referral to the tribal court. The Tribal Liaison may contact an appropriate tribal official (i.e. Tribal Attorney, Social Services Director, Court Administrator, etc.) and discuss specific case information to determine if the tribe can assist DCS in obtaining a wage assignment or in referring the case to tribal court, to avoid more aggressive collection remedies.
3. DCS receives a call from a tribal official that works for a Tribal IV-D or IV-A program or who is the DCS child support contact under a cooperative child support agreement, and the tribal official was asked by a tribal member to help resolve an issue regarding their child support case. You can release case information to the tribal official if the inquiry is about their specific Tribal TANF or Tribal IV-D case, or under the terms of a cooperative child support agreement, and for a child support purpose. An **Authorization to Disclose Personal Information**, DSHS 17-063, is required if the tribal official does not work for a Tribal IV-D or IV-A program, or is not a child support contact under a cooperative agreement.
4. DCS receives a subpoena by a tribal court for disclosure of confidential information for child support purposes. Contact your Tribal Claims Officer. If the information requested is related to child support enforcement, DCS will most likely be able to provide the information. If, however, the subpoena were for a purpose unrelated to child support enforcement (i.e. for asset/income information for the purposes of collection on a civil suit), DCS would not be able to disclose this information. The Claims Officer may consult with the AAG or may need to appear in Tribal Court.

**Are there any exceptions to disclosing information to a federally recognized Indian tribe?**

Yes. As on any case, exceptions may exist involving a case with good cause, a party in the Address Confidentiality Program (ACP), or a case with the Domestic Violence Indicator set to 1. Follow procedures in Chapter 5 regarding disclosure under these circumstances.

**Who can assist me with tribal public disclosure issues?**

Your Tribal Liaison or Tribal Claims Officer, field office Public Disclosure Officer, or Nancy Koptur, DCS Public Disclosure Coordinator, can assist you with issues and questions concerning tribal public disclosure.

**Where can I direct my comments and questions regarding this PCM?**

Please e-mail comments and questions regarding this policy to Brady Rossnagle at rossnbx@dshs.wa.gov.

cc: Nancy Koptur, Brady Rossnagle